



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 22, 1998

Ms. Tamara Armstrong
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR98-1708

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 116819.

The Travis County Sheriff's Department (the "department") received a request for information regarding a closed case which was subsequently referred to the Travis County Attorney's Office for criminal prosecution. The department, on behalf of the Travis County Attorney's Office¹, asserts that the requested information is excepted from disclosure under section 552.108(b)(1) of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

Section 552.108, the "law enforcement exception," provides in relevant part as follows:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (2) it is information that deals with the

¹We agree that the Travis County Sheriff's Office may invoke section 552.108 on behalf of the Travis County Attorney's Office. This office has said that section 3(a)(8) may be invoked by any proper custodian of information relevant to an incident involving allegedly criminal conduct that is still under active investigation or prosecution. Open Records Decisions Nos.474 (1987) 372 (1983); 286 (1981).

detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication. . . .

You state that there is an ongoing criminal investigation and that prosecution is pending in Cause No. 9801631. As the requested information relates to a pending criminal investigation and possible prosecution, we find that release of the requested information would interfere with the detection, investigation, or prosecution of crime. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, you may withhold the requested information under section 552.108(a)(1). However, you must release the type of information that is considered to be front page offense report information. *See generally* Act of June 1, 1997, H.B. 951, § 1, 75th Leg., R.S. (to be codified at Gov't Code § 552.108(c)); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Although section 552.108 authorizes you to withhold the requested information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/ch

Ref.: ID# 116819

Enclosures: Submitted documents

cc: Ms. Tina Gonzales
900 Broken Feather Trail, #227
Pflugerville, Texas 78660
(w/o enclosures)